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8
9 IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
10 COUNTY OF SAN FRANCISCO

11 DARRELL STEINBERG, in his official capacity)
as President pro Tempore of the Senate of the)
12 State of California and as a taxpayer of the State)
of California,)

13 Plaintiff/Petitioner,)

14 vs.)

15 ARNOLD SCHWARZENEGGER, in his official)
16 capacity as Governor of the State of California,)
and JOHN CHIANG, in his official capacity as)
17 Controller of the State of California,)

18 Defendants/Respondents.)
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No.: _____

Action Filed: _____

**VERIFIED COMPLAINT FOR
DECLARATORY RELIEF; PETITION
FOR WRIT OF MANDATE**

**NO FILING FEE PURSUANT TO
GOVERNMENT CODE SECTION 6103
[Acting in Official Capacity]**

1 Plaintiff/Petitioner DARRELL STEINBERG brings this complaint for declaratory relief
2 and petition for writ of mandate against GOVERNOR ARNOLD SCHWARZENEGGER and STATE
3 CONTROLLER JOHN CHIANG, pursuant to California Code of Civil Procedure sections 526a, 1060,
4 1062, and 1085 and alleges as follows:

5 INTRODUCTION

6 This case is about separation of powers. The Constitution allows the Governor to play
7 only a very limited role in the legislative process. Article IV, section 10 provides that the Governor
8 may veto an entire bill or he may “reduce or eliminate one or more items of appropriation while
9 approving other portions of a bill.” In this case, the Legislature amended a number of provisions in the
10 2009-10 Budget Act to reduce *existing* appropriations without making new ones. Nevertheless, the
11 Governor insists that he may use his line-item veto power, which only permits him to reduce new
12 appropriations, to make additional reductions beyond those the Legislature has already made. In
13 addition, he claims the right to use his line-item veto to eliminate valid restrictions that the Legislature
14 has placed on the use of funds, despite the fact that the line-item veto can only be used to reduce or
15 eliminate an item of appropriation.

16 The Governor has overstepped his authority. A reduction in an existing appropriation is
17 not subject to line-item veto. If the Governor wants to veto such reductions, he must veto the entire
18 bill in which they are contained. He cannot decrease them further to arrive at an amount that he
19 believes is appropriate and then sign the bill into law, nor can he veto specific control language that
20 does not make an appropriation. The manifest purpose behind article IV, section 10 and its consistent
21 interpretation by the courts of this state make clear that the Governor’s line-item veto authority applies
22 only to items of appropriation and thus is limited to provisions of a bill that grant authority to spend
23 state funds.

24 The issue in this case is particularly stark because of the context in which it arises.
25 Virtually all of the reductions made by the Governor are to funding for the most vulnerable members
26 of our society: the poor, the young, and the very old. In a time of severe economic crisis, the
27 Legislature was forced to cut deeply into programs that form the social safety net for many
28 Californians. It did so after careful study and long, often heated, deliberation. The end product was a

1 bill that no one liked, but that represented the considered decision of the Legislature that it was willing
2 to cut this far, but no farther. The Governor, however, made additional cuts of almost \$500 million
3 that will directly and disastrously affect the lives of the poorest among us.

4 Although no one disputes the Governor's authority to reduce a true item of
5 appropriation, that authority does not extend to making further reductions to existing appropriations or
6 to eliminating restrictions that the Legislature placed on other appropriations. Those decisions rest
7 with the Legislature, and as President pro Tempore of the California Senate, petitioner Darrell
8 Steinberg respectfully asks this Court to order the Controller to disregard the Governor's purported
9 vetoes of the budget items described more fully below and to declare that the Governor's purported
10 vetoes are null and void.

11 PARTIES

12 1. Plaintiff/petitioner DARRELL STEINBERG is the President pro Tempore of the
13 California State Senate, and a resident and taxpayer of the County of Sacramento. He is liable to pay,
14 and within one year before the commencement of this action has paid, taxes within the State of
15 California. STEINBERG is responsible for providing leadership to the State Senate, and for taking a
16 lead role in negotiating with the Governor, the Senate Minority Leader, the Assembly Speaker, and the
17 Assembly Minority Leader the budget for the State of California. As explained below, when the
18 Governor exercises line-item veto authority, he is not acting in his usual executive capacity, but is
19 exercising legislative powers pursuant to a limited constitutional grant of authority. When, as in this
20 case, the Governor seeks to exercise legislative power beyond the scope of that limited authority, he
21 intrudes impermissibly upon the constitutional role of the California State Legislature and adversely
22 affects fundamental interests of the legislative branch of state government. Plaintiff/petitioner
23 STEINBERG, therefore, brings this action in his official and personal capacities, as the President pro
24 Tempore of the Senate and as a taxpayer of the State of California.

25 2. Defendant/respondent ARNOLD SCHWARZENEGGER is the Governor of the
26 State of California. He is sued in his official capacity only. As chief executive officer of the State, he
27 is responsible for executing the Constitution and laws of the State of California. He is also responsible
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for signing into law, or vetoing, each bill passed by the Legislature, and for signing into law, vetoing, reducing or eliminating items of appropriations passed by the Legislature.

3. Defendant/respondent JOHN CHIANG is the Controller of the State of California. He is sued in his official capacity only and is named in this action for remedial purposes only. He is responsible for the administration of the state's finances, including allocating funds appropriated by law.

JURISDICTION AND VENUE

4. This Court has jurisdiction over this matter pursuant to Code of Civil Procedure sections 1085, 1060, 1062 and 526a. Plaintiff/petitioner is entitled to a writ of mandate because he does not have “a plain, speedy, and adequate remedy, in the ordinary course of law.” (Code Civ. Proc., § 1086.) If this Court does not act, the Legislature’s revisions to the 2009 Budget Act will not be enforced as enacted, and the State’s citizens will be deprived of the services that those appropriations illegally reduced by the Governor were intended to fund, causing them irreparable harm. The harm will be immediate, as state agencies, local governments, and citizens of this State need to know now whether important governmental services will or will not be funded during the coming year, and services for which funding was eliminated entirely will cease immediately. Plaintiff/petitioner is entitled to a declaration of his rights and defendants/respondents’ duties arising out of the actual controversy between the parties concerning the proper construction and implementation of subdivision (e) of section 10 of article IV of the California Constitution in fiscal years 2009-10. Plaintiff/petitioner is entitled to injunctive relief prohibiting defendants/respondents from implementing the purported line-item vetoes made by the Governor to A.B. 1 of the Fourth Extraordinary Session of the 2009-10 legislative session. Venue is authorized by Code of Civil Procedure sections 393 and 401(1).

FACTUAL ALLEGATIONS

5. On February 20, 2009, defendant/respondent SCHWARZENEGGER signed into law the Budget Act of 2009, Chapter 1 of the Third Extraordinary Session of 2009-10, which set forth various appropriations of state funds for the 2009-10 fiscal year.

1 6. On July 23 and 24, 2009, the Legislature passed Assembly Bill 1 of the 2009-10
2 Fourth Extraordinary Session ("A.B. 1") which, among other things, reduced the amount of various
3 appropriations previously authorized by the Budget Act of 2009 and added restrictions to other
4 appropriations authorized by that Budget Act.

5 7. Article IV, section 10(e) of the California Constitution permits the Governor to
6 "reduce or eliminate one or more items of appropriation while approving other portions of the bill."
7 As to all other bills, article IV, section 10(a) of the California Constitution permits the Governor only
8 two options: he may sign the bill into law, or he may "veto it by returning it with any objections to the
9 house of origin, which shall enter the objections in the journal and proceed to reconsider it."

10 8. On July 28, 2009, defendant/respondent SCHWARZENEGGER signed into law
11 A.B. 1. In so doing, SCHWARZENEGGER purported to exercise the "line-item" veto authority
12 provided by article IV, section 10(e) of the California Constitution in two ways not intended by the
13 Constitution: first, by increasing the amount of the reductions made by A.B. 1 to various items of
14 appropriation and second, by vetoing various restrictions made by A.B. 1 to prior appropriations.

15 9. For example, with respect to Item 3790-001-0001, the Budget Act of 2009 had
16 appropriated \$143,408,000 for support of the Department of Parks and Recreation. Through A.B. 1,
17 the Legislature reduced that appropriation to \$133,988,000. In his veto message associated with
18 A.B. 1, SCHWARZENEGGER purported to further reduce this item to \$127,788,000.

19 10. Similarly, Item 6600-001-0001, for support of the Hastings School of Law, was
20 reduced by A.B. 1 to \$9,270,000. Through his veto message, SCHWARZENEGGER purported to
21 further reduce this item to \$8,270,000.

22 11. SCHWARZENEGGER used his purported line-item veto to make reductions
23 even when the Legislature's action in A.B. 1 made only technical, non-substantive changes to a prior
24 appropriation. For example, Item 9840-001-0001, the Augmentation for Contingencies or
25 Emergencies, was amended to fix minor typographical errors, but the amount of the appropriation that
26 had been made in the February Budget Act – \$44,100,000 – was not changed. Nonetheless, through
27 his veto message, SCHWARZENEGGER purported to reduce this item to \$20,100,000.
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1 12. Through these purported line-item vetoes, SCHWARZENEGGER made
2 significant reductions to social services programs beyond those agreed to by the Legislature when it
3 passed A.B. 1. Among those reductions are:

- 4 • \$19 million in child welfare services;
- 5 • A \$50 million additional reduction to state funding for Regional Center services
- 6 for young children with developmental disabilities;
- 7 • A \$50 million additional reduction to the Healthy Families program;
- 8 • Elimination of state funding for the Linkages Program and the Community-
- 9 Based Services Program, which serve low-income seniors;
- 10 • \$8,655,000 in administrative funding for In-Home Support Services and an
- 11 additional \$28 million in "savings" from eliminating certain exemptions to
- 12 service cuts in the program;
- 13 • Elimination of remaining state funding for the Domestic Violence Shelter
- 14 program;
- 15 • A \$12 million reduction in Maternal, Child and Adolescent Health programs;
- 16 • Elimination of remaining state funding for Community Clinic programs;
- 17 • A \$60 million cut to state funding for county administration of the Medi-Cal
- 18 program;
- 19 • A \$52.1 million cut to programs run by the Office of AIDS Prevention and
- 20 Treatment;
- 21 • An additional cut of \$6.2 million in funding for state parks; and
- 22 • A \$27,791,000 reduction to the Williamson Act subventions, eliminating all but
- 23 \$1,000 in state funding for the program.

24 13. Attached as Exhibit A hereto and fully incorporated herein is a full and complete
25 copy of the Governor's veto message associated with A.B. 1 as chaptered. SCHWARZENEGGER'S
26 attempt to make further reductions to the following items listed in the veto message is illegal and
27 invalid: Items 3790-001-0001 (Department of Parks and Recreation); 4170-001-0001 (California
28 Department of Aging); 6110-001-0001 (Department of Education); 6600-001-0001 (Hastings College

1 of the Law); 7980-001-0001 (Student Aid Commission); 9100-101-0001 (Tax Relief/Subventions for
2 Open Space); 9800-001-0001, 9800-001-0494 and 9800-001-0988 (Augmentations for Employee
3 Compensation); 9840-001-0001 (Augmentation for Contingencies or Emergencies); and Control
4 Sections 17.50, 18.00, 18.10, 18.20, 18.30, 18.40 and 18.50.

5 14. In making the reductions and deletions set forth in paragraph 13,
6 defendant/respondent SCHWARZENEGGER acted unconstitutionally, in excess of the limited veto
7 power granted him by the California Constitution.

8 15. A.B. 1 also contained new or further restrictions on appropriations made in the
9 Budget Act of 2009. In his veto message associated with A.B. 1, SCHWARZENEGGER purported to
10 strike the language of those restrictions, in violation of the Constitution.

11 16. For example, Provision 2 of Item 3360-001-3117 relating to support of the
12 Energy Resources Conservation and Development Commission, as passed by the Legislature in A.B. 1,
13 would have prohibited the Energy Commission from making any expenditure from the Budget Act of
14 2009 appropriation for hydrogen refueling stations. In his veto message associated with A.B. 1,
15 SCHWARZENEGGER purported to delete Provision 2.

16 17. Similarly, Provision 7 of Item 5225-001-0001 for the support of the Department
17 of Corrections and Rehabilitation, as passed by the Legislature in A.B. 1, would have required the
18 Department to report overtime expenditures for custody staff, while Provision 9 of that item would
19 have restricted certain expenditures within the Department's budget, required the Department to report
20 on those expenditures, allowed for the redirection of certain funds, and provided for the reversion to
21 the General Fund of any funds that remain unspent. In his veto message associated with A.B. 1,
22 SCHWARZENEGGER purported to "revise this item by deleting Provisions 7 and 9."

23 18. Provision 5 of Item 5225-301-0660 relating to capital outlay expenditures of the
24 Department of Corrections and Rehabilitation, as passed by the Legislature in A.B. 1, would have
25 prohibited the Department from making any further encumbrances or expenditures of funding
26 appropriated for the Condemned Inmate Complex at San Quentin State Prison until certain specified
27 conditions were met. In his veto message associated with A.B. 1, SCHWARZENEGGER purported to
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1 delete Provision 5 thereby allowing the very encumbrances and expenditures that the Legislature
2 sought to prohibit.

3 19. Defendant/respondent SCHWARZENEGGER's attempt to use his line-item
4 veto to delete the following substantive restrictions or intent language listed in the Governor's Veto
5 Message attached as Exhibit A to this petition and complaint is illegal and invalid: Items 3360-001-
6 3117 (Energy Resources Conservation and Development Commission); 4265-111-0001 (Department
7 of Public Health); 5225-001-0001, 5225-002-0001 and 5225-301-0660 (Department of Corrections and
8 Rehabilitation).

9 **FIRST CAUSE OF ACTION**

10 **Violation of Article IV, section 10 of the California Constitution**

11 20. Plaintiff/petitioner realleges and incorporates by reference as if fully set forth
12 herein the allegations contained in paragraphs 1 through 19 above.

13 21. In making the reductions and other changes to substantive provisions of A.B. 1
14 as set forth in paragraphs 13 and 19 above, defendant/respondent SCHWARZENEGGER acted
15 unconstitutionally, in excess of the limited veto power granted him by the California Constitution.

16 22. The California Constitution permits the Legislature to pass a bill by a majority
17 vote in each house. (Cal. Const., art. IV, § 8(b).) The Governor may sign or veto the entire bill but
18 cannot veto specific items within a bill. (*Id.*, art. IV, § 10(a); *Harbor v. Deukmejian* (1987) 43 Cal.3d
19 1078, 1084-1087.)

20 23. Different vote and veto requirements apply to appropriations. "Appropriations
21 from the General Fund of the State, except appropriations for the public schools, are void unless passed
22 in each house by rollcall vote entered into the journal, two-thirds of the membership concurring."
23 (Cal. Const., art. IV, § 12(d).) The Governor may sign such a bill in its entirety, veto it or "reduce or
24 eliminate one or more items of appropriation." (*Id.*, art. IV, § 10(a) & (e).)

25 24. The Governor's veto power, whether related to a bill or item of appropriation, is
26 circumscribed and cannot be liberally construed. (*Harbor*, 43 Cal.3d at 1088, fn. 9.) That is because
27 the act of vetoing a bill or item of appropriation is an exercise of legislative power. The Governor is
28 part of the executive branch of government, and therefore his veto power extends beyond the natural

1 boundaries of his authority. Thus, when exercising the veto power, the “Governor acts as a ‘legislative
2 instrumentality’” and as “a special agent with limited powers.” (*Id.* at 1087, citations omitted.) “It
3 follows that in exercising the power of the veto the Governor may act only as permitted by the
4 Constitution.” (*Id.* at 1089.) “[I]n the case of a bill containing several items of appropriation of
5 money, he may approve one or more of them, and object to the others. . . . In no other cases is he
6 empowered to modify or change the effect of a proposed law, or to do anything concerning it except to
7 approve or disapprove it as a whole.” (*Id.* at 1088, quotations omitted.) As a result, the Governor’s
8 line-item veto power with respect to items of appropriations must be narrowly construed.

9 25. The Governor’s line-item veto authority extends only to “items of
10 appropriation.” (*Id.*, art. IV, § 10(e).) An appropriation is the sole means by which money can be
11 drawn from the State Treasury. (Cal. Const. art. XVI, § 7.) An appropriation is an instruction to a
12 state officer to expend a certain sum of money for a particular purpose. (*Stratton v. Green* (1872)
13 45 Cal. 149, 151.) “An appropriation is a legislative act setting aside ‘a certain sum of money for a
14 specified object in such manner that the executive officers are authorized to use that money and no
15 more for such specified purpose.” (*California Assn. for Safety Education v. Brown* (1994)
16 30 Cal.App.4th 1264, 1282, quoting *Ryan v. Riley* (1924) 65 Cal.App. 181, 187; *see also Harbor*,
17 43 Cal.3d at 1089 [rejecting the argument that an item was an appropriation using similar definition].)

18 26. As the California Supreme Court held in *Harbor v. Deukmejian*, 43 Cal.3d 1078,
19 a portion of a bill is not an “item of appropriation” subject to the Governor’s line-item veto merely
20 because it is within a bill that contains other appropriations or relates to an appropriation that was
21 already made in previous legislation. (*Harbor*, 43 Cal.3d at 1089-1091.). The only items subject to the
22 line-item veto are particular items that by themselves grant authority to spend a specified amount of
23 public money for a specific purpose. A bill item that reduces the amount of an appropriation made in
24 previous legislation is not by itself an appropriation because it does not by itself grant authority to
25 spend money; the grant of authority was made by the previous legislation. The Governor had the right
26 to veto or reduce the amount of the original appropriation but he does not get a second bite of the apple
27 simply because subsequent legislation further reduces or adds restrictions to a previously-made
28 appropriation.

27. Defendant/respondent SCHWARZENEGGER violated article IV, section 10(e) by attempting to reduce or eliminate those portions of A.B. 1 set forth in paragraph 13 above because those were not items of appropriation within the meaning of article IV, section (e) of the California Constitution. Those items did not “set aside money for the payment of any claim,” made “no appropriation from the public treasury,” and did not “add any additional amount to funds already provided for.” (*Harbor*, 43 Cal.3d at 1089.)

28. The non-partisan Legislative Counsel Bureau has similarly concluded that defendant/respondent SCHWARZENEGGER’S act of purporting to line-item veto the items of A.B. 1 set forth in paragraph 13 above violated the Constitution. In an opinion dated August 5, 2009, Legislative Counsel concluded that “in vetoing items and sections of A.B. 1 that proposed only reductions to existing appropriations enacted by the Budget Act of 2009, the Governor exceeded his ‘line-item’ veto authority.” (Ops. Cal. Legis. Counsel, No. 920903 (Aug. 5, 2009) p. 1.) Legislative Counsel continued: “We conclude here that the items and sections of A.B. 1 that proposed only to make reductions in existing, previously enacted appropriations do not satisfy this requirement and, thus, do not constitute items of appropriation that are subject to the Governor’s line-item veto power.” (*Id.* at 3.) A true and correct copy of the Legislative Counsel’s opinion is attached hereto as Exhibit B.

29. Defendant/respondent SCHWARZENEGGER violated article IV, section 10(e) by attempting to delete substantive language in those portions of A.B. 1 set forth in paragraph 19 above. The changes made by SCHWARZENEGGER were not reductions to items of appropriation within the meaning of article IV, section 10(e) of the California Constitution. SCHWARZENEGGER's authority with respect to those items thus was limited by article IV, section 10(a) of the California Constitution to either approving the bill in its entirety, or "returning it with any objections to the house of origin."

SECOND CAUSE OF ACTION

Violation of Article III, section 3 of the California Constitution

30. Plaintiff/petitioner realleges and incorporates by reference as if fully set forth herein the allegations contained in paragraphs 1 through 29 above.

31. Article III, section 3 of the California Constitution provides: “The powers of state government are legislative, executive, and judicial. Persons charged with the exercise of one power may not exercise either of the others except as permitted by this Constitution.”

32. By purporting to exercise his line-item veto to make greater reductions to existing appropriations than those approved by the Legislature and to eliminate valid restrictions that the Legislature had placed on other existing appropriations, as described in paragraphs 13 and 19 above, the Governor attempted to exercise authority that belongs solely to the Legislature. In 2004, the voters added article IV, section 10(f) to the Constitution to prescribe the procedures to be used when the State is faced with a severe mid-year budget deficit. Those procedures allow the Governor to call a special session and to propose legislation to deal with it, as was done this year. They do not, however, allow the Governor to make unilateral cuts in existing appropriations. That determination is left to the Legislature, which must send a bill to the Governor within 45 days or, if it does not, must remain in session and cannot act on any other bill until it does.

33. Even more recently, the voters confirmed that they do not want to give the Governor authority to make mid-year cuts in appropriations. Only last May, the voters defeated a ballot measure that would have given the Governor such authority, which the Legislative Analyst clearly explained to them in the ballot pamphlet as follows: “If Proposition 1A passes, the Governor would be given new authority to reduce certain types of spending during a fiscal year without additional legislative approval.” (Ballot Pamp., Special Elec. (May 19, 2009) analysis of Prop. 1A by the Legislative Analyst, p. 13.) Proposition 1A was defeated by a margin of 65.4% to 34.6%.

34. By purporting to exercise authority in excess of that granted him by the Constitution, the Governor violated the fundamental principle of separation of powers contained in article III, section 3 of the California Constitution.

THIRD CAUSE OF ACTION

Declaratory Relief

35. Plaintiff/petitioner realleges and incorporates by reference as if fully set forth herein the allegations contained in paragraphs 1 through 34 above.

1 36. An actual controversy has arisen and now exists between plaintiff/petitioner and
2 defendant/respondent as to whether defendant/respondent SCHWARZENEGGER had the authority to
3 reduce items set forth in paragraph 13 above and to substantively revise items set forth in paragraph 19
4 above pursuant to his line-item veto authority in subdivision (e) of section 10 of article IV of the
5 California Constitution.

6 37. Plaintiff/petitioner contends that the items defendant/respondent
7 SCHWARZENEGGER sought to reduce or eliminate in A.B. 1 as described in paragraphs 13 and 19
8 were not items of appropriation subject to the Governor's line-item veto authority set forth in
9 article IV, section 10(e) of the Constitution. Plaintiff/petitioner is informed and believes that
10 defendant/respondent SCHWARZENEGGER contends he has authority to reduce, eliminate, or revise
11 those items and he has done so.

12 **FOURTH CAUSE OF ACTION**

13 **Writ of Mandate**

14 38. Plaintiff/petitioner realleges and incorporates by reference as if fully set forth
15 herein the allegations contained in paragraphs 1 through 37 above.

16 39. A writ of mandate should issue requiring defendants/respondents to provide for
17 the full amount of appropriations made by the Legislature under the Budget Act of 2009, as reduced
18 and revised by A.B. 1, without regard to the reductions, eliminations, or revisions purported to be
19 made by defendant/respondent as described in paragraphs 13 and 19 above. Defendants/respondents
20 have a ministerial duty to make such appropriations and defendant/respondent SCHWARZENEGGER
21 acted unconstitutionally in attempting to reduce, eliminate, or revise such items.

22 40. Plaintiff/petitioner has no plain, speedy, or adequate remedy at law to compel
23 defendants/respondents to make the full appropriations set forth in the Budget Act of 2009 as reduced
24 or revised by A.B. 1 without regard to the Governor's unlawful vetoes.

25 WHEREFORE, plaintiff/petitioner prays for relief as follows:

26 1. That this Court issue a writ of mandate prohibiting defendants/respondents from
27 giving any force or effect to the line-item vetoes purportedly issued by defendant/respondent
28 SCHWARZENEGGER on July 28, 2009 as set forth in paragraphs 13 and 19 above;

1 2. That this Court issue its declaratory judgment that the purported line-item vetoes
2 issued by defendant/respondent SCHWARZENEGGER on July 28, 2009 and listed in paragraphs 13
3 and 19 above are null and void and can be given no force or effect;

4 3. That this Court order an award of attorneys fees to plaintiff/petitioner, and
5 provide such other and further relief as the Court deems appropriate.

6 Dated: August 10, 2009

Respectfully submitted,

7 Robin B. Johansen
8 Karen Getman
9 James C. Harrison
10 Thomas A. Willis
11 REMCHO, JOHANSEN & PURCELL, LLP

12 By: 
13 Robin B. Johansen

Attorneys for Plaintiff/Petitioner Darrell Steinberg

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EXHIBIT A

Assembly Bill No. 1

CHAPTER 1

An act to amend and supplement the Budget Act of 2009 (Chapter 1 of the 2009-10 Third Extraordinary Session) by amending Items

0250-001-0001, 0250-001-0159, 0250-001-0932, 0250-001-3037,
0250-001-3066, 0250-012-0001, 0250-101-0001, 0250-101-0932,
0250-102-0556, 0250-111-0001, 0250-112-0001, 0250-301-0660,
0250-301-3037, 0502-001-0001, 0502-001-9740, 0510-001-0001,
0510-001-9740, 0520-001-0001, 0520-001-0044, 0520-001-0918,
0520-011-0001, 0530-001-9732, 0540-001-0140, 0540-001-6031,
0540-101-6051, 0540-001-6051, 0540-490, 0555-001-0028, 0555-001-0044,
0555-001-0235, 0559-001-0001, 0559-001-3078, 0650-001-0001,
0650-001-0890, 0690-001-0001, 0690-001-0890, 0690-001-6061,
0690-101-0890, 0690-102-0214, 0690-102-0890, 0820-001-0001,
0820-001-0378, 0820-001-0890, 0820-001-3086, 0840-001-0001,
0840-001-0061, 0840-001-0062, 0840-001-0330, 0840-001-0890,
0840-001-0903, 0840-001-0970, 0840-001-0988, 0840-001-6057,
0840-001-9740, 0840-011-0494, 0840-011-0797, 0840-011-0988,
0855-111-0367, 0860-001-0001, 0860-001-0022, 0860-001-0061,
0860-001-0623, 0860-001-3015, 0950-001-0001, 0950-001-9740,
0968-001-0457, 1111-002-0582, 1730-001-0001, 1760-001-0666,
1760-101-0022, 1870-001-0001, 1870-001-0890, 1870-101-0890,
1880-001-0001, 1900-015-0815, 1900-015-0820, 1900-015-0822,
1900-015-0830, 1900-015-0833, 1900-015-0884, 2240-001-0648,
2240-101-0001, 2240-101-0890, 2320-001-0317, 2660-001-0042,
2660-001-0890, 2660-001-6801, 2660-002-3007, 2660-002-3008,
2660-004-6055, 2660-004-6056, 2660-004-6058, 2660-004-6064,
2660-004-6072, 2660-102-0890, 2660-302-0042, 2660-302-0890,
2660-303-0042, 2660-491, 2665-004-6043, 2670-001-0290, 2720-001-0044,
2720-001-0840, 2720-001-0890, 2720-301-0044, 2740-001-0042,
2740-001-0044, 2740-001-0064, 3340-001-0001, 3340-001-0318,
3340-001-6051, 3360-001-0381, 3360-001-0465, 3360-001-0890,
3360-001-3117, 3480-001-0001, 3480-001-0133, 3480-001-0141,
3480-001-0336, 3480-001-3046, 3480-101-0005, 3540-001-0001,
3540-001-0140, 3540-001-0235, 3540-001-0890, 3540-001-3120,
3540-006-0001, 3600-001-0001, 3600-001-0005, 3600-001-0200,
3600-001-0235, 3600-001-0320, 3600-001-6051, 3600-101-0320,
3680-001-0516, 3680-101-0516, 3680-101-0890, 3680-101-3001,
3760-001-0140, 3760-001-0565, 3760-301-0262, 3760-301-0371,
3760-301-0593, 3760-301-6051, 3760-301-6076, 3790-001-0001,
3790-001-0235, 3790-001-0263, 3790-301-6051, 3790-490, 3790-497,
3810-001-0140, 3810-301-6031, 3855-001-0140, 3860-001-0001,
3860-001-0140, 3860-001-0404, 3860-001-0890, 3860-001-3057,
3860-001-6052, 3860-101-6052, 3860-301-6052, 3910-001-0387,

24.65 of, that act, relating to the State Budget, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 28, 2009. Filed with
Secretary of State July 28, 2009.]

I object to the following appropriations contained in Assembly Bill 1, Fourth Extraordinary Session.

Item 3340-101-0001—For local assistance, California Conservation Corps. I delete this item.

In order to create a reasonable reserve, I am making additional reductions so we have resources to address emergencies or additional revenue shortfalls. In addition, the Legislature did not make changes to improve the cost-effectiveness of the Beverage Container Recycling Program and address the shortfall in the Fund in a manner that supports recycling objectives. I look forward to working with the Legislature to enact comprehensive reform to the Beverage Container Recycling Program.

Item 3360-001-3117—For support of Energy Resources Conservation and Development Commission. I delete Provision 2.

I am deleting Provision 2, which would prohibit the Energy Commission from making any expenditure from this appropriation for hydrogen refueling stations. The goal of the Alternative and Renewable Fuel and Vehicle Technology program is to develop and deploy innovative technologies that transform California's fuel and vehicle types to help attain the state's climate change policies. This provision would limit the program's technology options, and would discourage continued development of hydrogen fuels and related vehicles and technology.

Item 3790-001-0001—For support of Department of Parks and Recreation. I reduce this item from \$133,988,000 to \$127,788,000 by reducing:

(1) For support of the Department of Parks and Recreation from \$428,717,000 to \$422,517,000.

In order to create a reasonable reserve, I am making additional reductions so we have resources to address emergencies or additional revenue shortfalls. I know this reduction will likely lead to closure of additional parks but we are facing unprecedented budget challenges and we have limited choices. I am directing the Department to do everything it can to work with local governments, the federal government, community based organizations, and other interested parties who can partner with the state to help mitigate any state park closures.

Item 4170-001-0001—For support of California Department of Aging. I reduce this item from \$4,227,000 to \$4,121,000 by reducing:

(4) 40-Special Projects from \$8,680,000 to \$8,574,000.

I am reducing this item by \$106,000 and 0.5 personnel years for the following programs:

- \$79,000 for the Linkages Program, and
- \$27,000 for Community Based Services Programs.

This action conforms to my action in Control Section 17.50.

Item 4260-101-0890—For local assistance, Department of Health Care Services. I am reducing this item from \$26,592,825,000 to \$26,532,256,000 to conform to the action I have taken in Control Section 18.00.

Item 4265-111-0231—For local assistance, Department of Public Health. I reduce this item from \$54,154,000 to \$47,354,000.

I am deleting the \$6,800,000 one-time augmentation of Proposition 99 funds for the Tobacco Control Program for anti-tobacco media campaigns and competitive grants to local entities. While I proposed this augmentation, tobacco tax revenues have since declined to levels insufficient to support these efforts.

Item 5180-151-0001—For local assistance, Department of Social Services. I reduce this item from \$763,375,000 to \$702,494,000 by reducing:

(1) 25.30-Children and Adult Services and Licensing from \$2,159,705,000 to \$2,098,824,000.

I am reducing this item by \$60,881,000 to increase the reserve for economic uncertainties and to reduce the state's structural deficit, consistent with my May Revision proposal to achieve an unallocated reduction in the Child Welfare Services Program. I am reducing a total of \$79,956,000 for this purpose: \$60,881,000 from this Item and \$19,075,000 from subdivision (f) of Control Section 18.50.

Item 5225-001-0001—For support of the Department of Corrections and Rehabilitation. I revise this item by deleting Provisions 7 and 9.

I am deleting Provision 7, which would require the California Department of Corrections and Rehabilitation (CDCR) to report 2008 09 and 2009-10 overtime expenditures for custody staff. This reporting requirement would result in additional workload without regard to the availability of resources. Consequently, I am vetoing this language. Nevertheless, in recognition of the Legislature's desire to obtain this information, I am instructing the CDCR to comply with the legislative request for this report to the extent that compliance can be achieved using existing resources and without impairing the CDCR's ability to perform its essential functions.

I am deleting Provision 9, which would restrict certain expenditures within the CDCR's budget for specified purposes, require the CDCR to report on the expenditure of these funds, allow for the redirection of funds as specified, and provide that any funds not spent revert to the General Fund. While my Administration is committed to ensuring that funds are spent for the purposes for which they are appropriated, this language is too restrictive for CDCR in 2009-10 as they implement major population reforms and other reductions, including a significant unallocated reduction.

Item 5225-002-0001—For support of the Department of Corrections and Rehabilitation. I revise this item by deleting Provision 6.

I am deleting Provision 6, which would restrict certain expenditures within the California Department of Corrections and Rehabilitation's (CDCR) budget for specified purposes, require the CDCR to report on the expenditure of these funds, allow for the redirection of funds as specified, and provide that any funds not spent revert to the General Fund. While my Administration is committed to ensuring that funds are spent for the purposes for which they are appropriated, this language is too restrictive for CDCR in 2009-10 as they implement major population reforms and other reductions, including significant unallocated reductions.

Item 5225-301-0660—For capital outlay, Department of Corrections and Rehabilitation. I revise this item by deleting Provision 5.

I am deleting Provision 5, which prohibits the Department from making any further encumbrances or expenditures of funding appropriated for the San Quentin State Prison: Condemned Inmate Complex until three specified conditions are met. This project is needed to remedy significant operational deficiencies associated with the existing condemned inmate housing and address issues cited in the *Plata* and *Coleman* lawsuits regarding sufficient health care access and accessibility for aging and disabled inmates. This project is ready to begin construction. Having to delay the construction start to comply with these conditions will cause

unnecessary increased costs. In addition, this appropriation provides no increased expenditure authority for those costs. This increases the likelihood that the Public Works Board would be required to augment earlier appropriations as provided for by law. I therefore veto this provision so as to control the expenditures of the state.

Item 6110-001-0001—For support of the Department of Education. I reduce this item from \$38,210,000 to \$37,505,000 by reducing:

(2) 20-Instructional Support from \$158,747,000 to \$158,042,000, and by deleting Provision 7.

I am reducing this item by \$705,000 to capture the maximum amount of savings from the instructional materials flexibility provided in the Education trailer bill to school districts, which suspends the adoption of instructional materials by the State Board of Education (Board) and the subsequent purchasing requirements for school districts until 2013-14. As a result, it is unnecessary for the Curriculum Development and Supplemental Materials Commission to continue to advise the Board on content frameworks and instructional materials adoptions for the next five years or until an agreed-upon process is reestablished. This reduction removes funding for unnecessary Commission per diem and travel as well as funding for Department staff.

Item 6110-008-0001—For support of Department of Education, as allocated by the Department of Education to the State Special Schools for student transportation allowances. I delete this item.

This item would provide \$3,894,000 Proposition 98 General Fund for student transportation at the State Special Schools. However, the Legislature subsequently provided special education federal funds (Provision 11 of Item 6110-161-0890) for the same purpose with the understanding that this Proposition 98 appropriation is no longer necessary. Therefore, on a technical basis, I delete this item to remove duplicative funding for student transportation at the State Special Schools.

I am also deleting Provisions 1 and 2 to conform to this action.

Item 6600-001-0001—For support of Hastings College of the Law. I am reducing this item from \$9,270,000 to \$8,270,000.

I am reducing this item by an additional \$1,000,000 to achieve General Fund savings. Combined with the 10-percent reduction approved by the Legislature, this unallocated reduction will reduce Hastings' state support to be more in line with the General Fund reductions made to the University of California and the California State University since the 2008 09 Budget was first enacted. Because Hastings has increased its student fees by almost 38 percent since 2007-08, including a 13-percent increase for 2009-10, funding for the instructional program still increases by 5 percent in 2009-10 which should be sufficient in this fiscal climate.

Item 7980-001-0001—For support of California Student Aid Commission. I reduce this item from \$12,623,000 to \$6,323,000 by reducing:

(1) 15-Financial Aid Grants Program from \$13,049,000 to \$6,749,000

I am vetoing \$6,300,000 from the California Student Aid Commission, of which \$4,300,000 is set aside to be restored contingent upon enactment of legislation that authorizes the decentralization of the Cal Grant Program and other financial aid programs as warranted. The \$2,000,000 difference represents savings that would be achieved through efficiencies resulting from the decentralization and other over-budgeting that currently exists.

Under my January proposal, a proposal that was broadly supported by the higher education segments, the Student Aid Commission's intermediary role in approving awards will be largely eliminated. The proposal would establish colleges and universities as the single point

of contact for most students' financial aid needs. This change would significantly reduce the Student Aid Commission's General Fund operating costs on an ongoing basis and save money at the postsecondary segments by reducing double-handling of awards between the colleges and the Commission. This action illustrates my commitment to put the students first and to improve the efficiency of state government. I look forward to working with the Legislature on legislation that will better serve our students and the higher education segments.

Item 9100-101-0001—For local assistance, Tax Relief. I reduce this item from \$472,370,000 to \$444,579,000 by reducing:

(5) 60-Subventions for Open Space from \$27,792,000 to \$1,000.

I am reducing this item by \$27,791,000 to suspend funding for this program, which backfills a portion of property taxes foregone when local governments voluntarily enter into contracts with property owners who agree to use their land for agricultural or open space purposes in exchange for a lower property tax assessment. This is necessary to provide a prudent reserve in the General Fund.

Item 9620-001-0001—For payment of interest on General Fund loans, upon order of the Director of Finance, for any General Fund loan. I delete Provision 4.

I have reviewed the Legislature's action on my proposal for deficiency funding in the event that the Controller must implement a payment delay plan to manage emergency cash needs. My proposal would have appropriated any amount necessary to pay the interest expenses, late payment penalties, and other costs incurred by the Controller in implementing such a plan, and it would have accelerated the review and approval process that currently exists for funding such deficiencies.

Provision 4 serves as an appropriation for specific costs incurred by the Controller. The use of this appropriation is contingent upon the occurrence of various actions and events. The legislative action on this appropriation would, in effect, exempt the Controller from obtaining approval from Finance before incurring a deficiency. It might also have the unintended effect of relieving the Controller of the personal responsibility requirements contained in Control Section 32.00. In light of this, I have determined that the provisions of Item 9840-001-0001 are adequate for the review and approval of Controller costs related to a payment delay plan and I hereby veto Provision 4.

Item 9800-001-0001—For Augmentation for Employee Compensation. I reduce this item from \$40,742,000 to \$15,742,000.

I am reducing funding by \$25,000,000 for employee compensation and am instructing my administration to absorb this reduction to build a prudent reserve. To effect this reduction, I am directing the Director of Finance to reduce the amount that would have been allocated to each department for increases in employee compensation costs, including health care. This reduced amount available for allocation to departments will not affect pay or benefits for employees in any way. Employees will receive full pay, and the funding for pay and benefits not available from Item 9800 will be funded by a redirection within existing resources by individual departments. All previously negotiated employee compensation increases, and all employee compensation increases for medical, mental, and dental health positions arising from the *Coleman*, *Plata*, and *Perez* court cases will be unaffected by my action to reduce this appropriation.

Item 9800-001-0494—For Augmentation for Employee Compensation. I reduce this item from \$51,589,000 to \$31,589,000.

I am reducing funding by \$20,000,000 for employee compensation and am instructing my administration to absorb this reduction to build a prudent reserve. To effect this reduction, I

am directing the Director of Finance to reduce the amount that would have been allocated to each department for increases in employee compensation costs, including health care. This reduced amount available for allocation to departments will not affect pay or benefits for employees in any way. Employees will receive full pay, and the funding for pay and benefits not available from Item 9800 will be funded by a redirection within existing resources by individual departments. All previously negotiated employee compensation increases, and all employee compensation increases for medical, mental, and dental health positions arising from the *Coleman*, *Plata*, and *Perez* court cases will be unaffected by my action to reduce this appropriation.

Item 9800-001-0988—For Augmentation for Employee Compensation. I reduce this item from \$25,410,000 to \$15,410,000.

I am reducing funding by \$10,000,000 for employee compensation and am instructing my administration to absorb this reduction to build a prudent reserve. To effect this reduction, I am directing the Director of Finance to reduce the amount that would have been allocated to each department for increases in employee compensation costs, including health care. This reduced amount available for allocation to departments will not affect pay or benefits for employees in any way. Employees will receive full pay, and the funding for pay and benefits not available from Item 9800 will be funded by a redirection within existing resources by individual departments. All previously negotiated employee compensation increases, and all employee compensation increases for medical, mental, and dental health positions arising from the *Coleman*, *Plata*, and *Perez* court cases will be unaffected by my action to reduce this appropriation.

Item 9840-001-0001—Augmentation for Contingencies or Emergencies. I reduce this item from \$44,100,000 to \$20,100,000.

In order to create a reasonable reserve, I am making additional reductions so we have resources to address additional revenue shortfalls. Therefore, I am reducing this item by \$24,000,000 to fund higher competing priorities. I have determined that this reduced level of funding, which is consistent with the amount of unanticipated expenses funded by this Item in the previous fiscal year, is adequate for the purposes of this Item.

SEC. 17.50—I am reducing the item of General Fund appropriation in this section by \$6,160,000 as opposed to approving the item as presented without reduction. Thus, I am increasing the General Fund reduction from \$9,483,000 to \$15,643,000.

The effect of my action reflects a reduction of \$6,160,000 to Special Projects (Program 40) to increase the reserve for economic uncertainties and to reduce the state's structural deficit. This reduction is consistent with my May Revision proposal to eliminate the Linkages Program and Community Based Services Programs. Specifically, I am reducing \$3,879,000 from the Linkages Program and \$2,281,000 from Community Based Services Programs. Funding of these non-mandated programs cannot be continued due to the state's severe budget constraints.

"Sec. 17.50. The amount appropriated in Item 4170-101-0001 of Section 2.00 is hereby reduced by ~~\$9,483,000~~ \$15,643,000."

SEC. 18.00—I am reducing the item of General Fund appropriation in subdivision (a) of the section by \$60,569,000 as opposed to approving the item as presented without reduction. I am also reducing the item of General Fund appropriation in subdivision (e) of this section by \$25,000,000 as opposed to approving the item as presented without reduction. Thus, I am revising subdivision (e) of this Section by increasing the General Fund reduction from \$4,303,000 to \$29,303,000, and County Administration by \$60,569,000.

The effect of my action reflects a reduction of \$25,000,000 (from \$39,909,000 to \$14,909,000) to Primary and Rural Health (Program 20.35) to increase the reserve and to reduce the state's structural deficit. This reduction is consistent with my May Revision proposal to eliminate General Fund grants for Community Clinic Programs. Many, if not all of these clinics, will continue to receive funding through remaining state programs, federal programs, local programs, and private funds. Increased federal stimulus funds are available to many of these clinics and will help to minimize the overall impact of this reduction.

I am also reducing County Administration by \$60,569,000 (from \$2,893,363,000 to \$2,832,794,000) to increase the reserve and to reduce the state's structural deficit.

"SEC. 18.00. (a) The amount appropriated in Item 4260-101-0001 of Section 2.00 is hereby reduced by ~~\$2,789,402,000~~ \$2,849,971,000.

(b) Schedule (7) of Item 4260-101-0001 of Section 2.00 is hereby deleted.

(c) Provision 13 is added to Item 4260-101-0001 of Section 2.00, to read:

13. It is the intent of the Legislature to actively pursue the receipt of federal funds within the Medicaid (Medi-Cal) Program which are past due from the federal government, including, but not limited to: (a) disability insurance benefits that resulted in state expenditures instead of federal Medicare expenditures, (b) the retroactive payment of Part B premiums due to systemic errors by the federal Social Security Administration, (c) needed adjustments to formulas that penalize California, such as the Medicare Part D "clawback," and (d) receipt of federal funds due to California under various existing Medi-Cal waiver programs.

(d) Schedule (4) of Item 4260-101-0001 of Section 2.00 is hereby revised to be ~~-\$284,246,000~~.

(e) The amount appropriated in Item 4260-111-0001 of Section 2.00 is hereby reduced by ~~\$4,303,000~~ \$29,303,000.

(f) Provision 3 is added to Item 4260-111-0001 of Section 2.00, to read:

3. The State Department of Health Care Services shall convene a diverse workgroup as applicable that, at a minimum, represents families enrolled in the California Children's Services (CCS) Program, counties, specialty care providers, children's hospitals, and medical suppliers to discuss the administrative structure of the CCS Program, including eligibility determination processes, the use and content of needs assessment tools in case management, and the processes used for treatment authorizations. The purpose of this workgroup will be to identify methods for streamlining, administrative cost-efficiencies, and better utilization of both state and county staff, as applicable, in meeting the needs of children and families accessing the CCS Program. The department may provide the policy and fiscal committees of each house of the Legislature with periodic updates of outcomes as appropriate.

(g) Schedule (3) of Item 4260-111-0001 of Section 2.00 is hereby revised to be ~~-\$58,188,000~~.

(h) The amount appropriated in Item 4260-113-0001 of Section 2.00 is hereby reduced by ~~\$47,265,000~~."

SEC. 18.10—I am reducing the item of General Fund appropriation in subdivision (c) of this section by \$80,473,000 as opposed to approving the item as presented without reduction. Thus, I am increasing the General Fund reduction from \$62,967,000 to \$143,440,000.

The effect of my action reflects the deletion of various legislative restorations for public health local assistance programs to increase the reserve and to reduce the state's structural deficit, consistent with my May Revision proposals. When making these difficult reductions to important program services, I have sought to protect the continued delivery of drug therapies

to low-income individuals living with HIV and thus retained funding for the AIDS Drug Assistance Program.

Specifically, I am eliminating:

- \$52,133,000 General Fund for various programs administered by the Office of AIDS: Education and Prevention, Therapeutic Monitoring, Counseling and Testing, Early Intervention, Home and Community Based Care, and Housing,

- \$16,337,000 General Fund for the Domestic Violence Program,
- \$9,000,000 General Fund for the Adolescent Family Life Program, and
- \$3,003,000 General Fund for the Black Infant Health Program.

I am deleting subdivision (d) of this section to conform to this action.

“SEC. 18.10. (a) The amount appropriated in Item 4265-001-0001 of Section 2.00 is hereby reduced by \$6,981,000.

(b) Schedule (6) of Item 4265-001-0001 of Section 2.00 is hereby revised to be \$38,739,000.

(c) The amount appropriated in Item 4265-111-0001 of Section 2.00 is hereby reduced by ~~\$62,967,000~~ \$143,440,000.

~~(d) Provision 2 is added to Item 4265-111-0001 of Section 2.00, to read:~~

~~2. It is the intent of the Legislature that the funds appropriated in this item be used to maintain core active surveillance activities to meet federal reporting requirements and to continue HIV/AIDS prevention and education efforts for which federal funds are not available.~~

(e) Provision 3 is added to Item 4265-111-0001 of Section 2.00, to read:

3. The appropriation in this item for the Alzheimer’s Research Centers shall be used for direct services, including, but not limited to, diagnostic screening, case management, disease management, support for caregivers, and related services necessary for positive client outcomes.”

SEC. 18.20—I am reducing the item of General Fund appropriation in subdivision (a) of this section by \$47,050,000 as opposed to approving the item as presented without reduction. I am also reducing the item of General Fund appropriation in subdivision (c) of this section by \$2,950,000 as opposed to approving the item as presented without reduction. Thus, I am increasing the General Fund reduction in Item 4280-101-0001 from \$125,581,000 to \$172,631,000, and in Item 4280-102-0001 from \$3,046,000 to \$5,996,000.

The effect of my action reflects a reduction of \$50,000,000 (from \$275,251,000 to \$225,251,000 in total General Fund program funding) to increase the reserve and to reduce the state’s structural deficit. While this is a very difficult reduction, the Healthy Families program is not an entitlement and is a program that can be reduced during this difficult economic period. I hereby direct the Health and Human Services Agency to continue to work with the California Children and Families Commission, with local commissions, foundations, and other interested parties to provide additional resources to supplement General Fund appropriations and provide health care coverage for as many children as possible.

“Section 18.20. (a) The amount appropriated in Item 4280-101-0001 of Section 2.00 is hereby reduced by ~~\$125,581,000~~ \$172,631,000.

(b) Provision 2 is added to 4280-101-0001 of section 2.00, to read:

2. It is the intent of the Legislature, during these unprecedented fiscal times, to maintain the integrity of the Healthy Families Program to continue to provide health, dental, and vision coverage to low-income children. However, assistance from philanthropic organizations and other sources will be necessary in order for California to obtain its full allotment of federal funds to support this program. In the event funds are not available, it is the intent of the

Legislature for the Managed Risk Medical Insurance Board to utilize its existing authority to establish a waiting list of children for enrollment in the program.

(c) The amount appropriated in Item 4280-102-0001 of Section 2.0 is hereby reduced by ~~\$3,046,000~~ \$5,996,000.”

SEC. 18.30—I am reducing the item of General Fund appropriation in subdivision (a) of this section by \$50,000,000 as opposed to approving the item as presented without reduction. Thus, I am increasing the reduction in subdivision (a) from \$214,828,000 to \$264,828,000.

I am reducing Regional Center Purchase of Services by \$50,000,000 for services to children up to age five, as these services are due to program growth and thus eligible for funding from the California Children and Families Commission. I am directing the Secretary for the Health and Human Services Agency, the Department of Developmental Services, and the Department of Finance to immediately request funds from the Commission for this purpose. I do not intend to pursue separate legislation changing eligibility or services for these children for purposes of achieving these savings. I urge the Commission to provide supplemental funding for the growth in these services.

“SEC. 18.30. (a) The amount appropriated in Item 4300-101-0001 of Section 2.00 is hereby reduced by ~~\$214,828,000~~ \$264,828,000.

(b) Schedule (4) of Item 4300-101-0001 of Section 2.00 is hereby revised to be \$1,663,363,000.”

SEC. 18.40—I am reducing the item of General Fund appropriation in subdivision (e) of this section by \$4,082,000 as opposed to approving the item as presented without reduction. Thus, I am increasing the General Fund reduction from \$3,547,000 to \$7,629,000. I am vetoing \$4,082,000 to increase the reserve and to reduce the state’s structural deficit, consistent with my May Revision proposal to eliminate this program.

The effect of my action reflects a partial veto of the legislative restoration for the Caregiver Resource Centers.

“SEC. 18.40. (a) The amount appropriated in Item 4440-001-0001 of Section 2.00 is hereby reduced by \$8,447,000.

(b) The amount appropriated in Item 4440-103-0001 of Section 2.00 is hereby reduced by \$113,380,000.

(c) The amount appropriated in Item 4440-104-0001 of Section 2.00 is hereby reduced by \$52,000,000.

(d) (1) Provision 1 of Item 4440-104-0001 of Section 2.00 is hereby deleted.

(2) Provision 3 is added to Item 4440-104-0001 of Section 2.00, to read:

3. These funds are for costs incurred in the 2006–07, 2007–08, 2008–09, and 2009–10 fiscal years. The first priority of funds appropriated in this item shall be used to offset the mandate reimbursement claims for the 2006–07 fiscal year. Remaining funds may be used to offset the mandate reimbursement claims for the 2007–08, 2008–09, and 2009–10 fiscal years.

(e) The amount appropriated in Item 4440-111-0001 of Section 2.00 is hereby reduced by ~~\$3,547,000~~ \$7,629,000.”

SEC. 18.50—I am reducing the item of General Fund appropriation in subdivision (d) of this section by \$37,555,000 as opposed to approving the item as presented without reduction. Additionally, I reduce the item of General Fund appropriation in subdivision (f) of this section by \$19,075,000 as opposed to approving the item as presented without reduction. Thus, I am increasing the General Fund reduction from \$1,167,507,000 to \$1,224,137,000.

The effect of my action reflects a reduction of \$37,555,000 to In-Home Supportive Services (IHSS, Program 25.15) to reflect the following reductions:

- \$28,900,000 due to the determination that it is necessary to waive exemptions included in paragraph (2) of subdivision (e) of Section 29 of X4 AB 4 to maintain federal financial participation. Due to this determination, more IHSS recipients will be impacted by the reduction in services authorized in X4 AB 4.

- \$8,655,000 from reducing funding for IHSS Public Authority administration. This leaves \$10,000,000 General Fund available for the Public Authorities to provide assistance to recipients in finding IHSS providers, investigate qualifications of potential IHSS providers, and offer training to IHSS providers.

These reductions total \$37,555,000, which I am reducing from subdivision (d) of this Control Section. I am making these reductions so we have a prudent reserve and resources to address emergencies or additional revenue shortfalls.

My action also reflects a reduction of \$19,075,000 to Title IV-E Waiver (Program 26) to increase the reserve for economic uncertainties and to reduce the state's structural deficit, consistent with my May Revision proposal to achieve an unallocated reduction in the Child Welfare Services Program. I am reducing a total of \$79,956,000 for this purpose: \$19,075,000 from subdivision (f) of this Control Section and \$60,881,000 from Item 5180 151-0001.

"Sec. 18.50. (a) The amount appropriated in Item 5180-001-0001 of Section 2.00 is hereby reduced by \$7,337,000.

(b) Provision 9 of Item 5180-001-0001 of Section 2.00 is hereby deleted.

(c) The amount appropriated in Item 5180-101-0001 of Section 2.00 is hereby reduced by \$500,501,000.

(d) The amount appropriated in Item 5180-111-0001 of Section 2.00 is hereby reduced by ~~\$643,248,000~~ \$680,803,000.

(e) Schedule (5) of Item 5180-111-0001 of Section 2.00 is hereby deleted.

(f) The amount appropriated in Item 5180-153-0001 of Section 2.00 is hereby reduced by ~~\$16,421,000~~ \$35,496,000."

With the above deletions, revisions, and reductions, I hereby approve Assembly Bill 1, Fourth Extraordinary Session.

ARNOLD SCHWARZENEGGER

LEGISLATIVE COUNSEL'S DIGEST

AB 1, Evans. Budget Act of 2009: revisions.

The Budget Act of 2009 (Chapter 1 of the 2009–10 Third Extraordinary Session) made appropriations for the support of state government for the 2009–10 fiscal year.

This bill would make revisions in those appropriations for the 2009–10 fiscal year. The bill would make specified reductions in certain appropriations.

The California Constitution authorizes the Governor to declare a fiscal emergency and to call the Legislature into special session for that purpose. The Governor issued a proclamation declaring a fiscal emergency, and calling a special session for this purpose, on July 1, 2009.

This bill would state that it addresses the fiscal emergency declared by the Governor by proclamation issued on July 1, 2009, pursuant to the California Constitution.

This bill would declare that it is to take effect immediately as an urgency statute.

Appropriation: yes.

The people of the State of California do enact as follows:

SECTION 1. For purposes of this act, the “Budget Act of 2009” means Chapter 1 of the 2009–10 Third Extraordinary Session, as amended by Chapter 3 of the 2009–10 Third Extraordinary Session.

SEC. 2. Item 0250-001-0001 of Section 2.00 of the Budget Act of 2009 is amended to read:

0250-001-0001—For support of Judicial Branch..... 354,711,000

Schedule:

(1) 10-Supreme Court.....	47,283,000
(2) 20-Courts of Appeal.....	208,694,000
(3) 30-Judicial Council.....	119,412,000
(4) 35-Judicial Branch Facility Program.....	2,217,000
(5) 50-California Habeas Corpus Resource Center.....	15,064,000
(5.5) 97.20.001-Unallocated Reduction.....	-21,286,000
(6) Reimbursements.....	-7,572,000
(7) Amount payable from the Motor Vehicle Account, State Transportation Fund (Item 0250-001-0044).....	-184,000
(8) Amount payable from the Court Interpreters’ Fund (Item 0250-001-0327).....	-161,000
(9) Amount payable from the Federal Trust Fund (Item 0250-001-0890).....	-4,475,000
(10) Amount payable from the Appellate Court Trust Fund (Item 0250-001-3060).....	-4,281,000

Provisions:

1. Notwithstanding Section 26.00, the funds appropriated or scheduled in this item may be allocated or reallocated among categories by order of the Judicial Council.
2. Of the funds appropriated in this item, \$200,000 is available for reimbursement to the Attorney General, or for hiring outside counsel, for prelitigation and litigation fees and costs, including any judgment, stipulated judgment, offer of judgment, or settlement. This amount is for use in connection with (a) matters arising from the actions of appellate courts, appellate court

EXHIBIT B



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August 5, 2009

Honorable Karen Bass
Room 219, State Capitol

**GOVERNOR'S LINE-ITEM VETO AUTHORITY: REDUCTIONS TO EXISTING
APPROPRIATIONS - #0920903**

Dear Ms. Bass:

You have asked whether the Governor's vetoes of those items or sections in Assembly Bill No. 1 of the 2009-10 Fourth Extraordinary Session (hereafter A.B. 1) that only reduced the amount of an existing appropriation previously authorized by the statute enacted as the Budget Act of 2009 (Ch. 1, 2009-10 3rd Ex. Sess.) constitute a valid exercise of the Governor's "line-item" veto authority granted by subdivision (e) of Article IV of Section 10 of the California Constitution.¹ As discussed below, we conclude that, in vetoing items and sections of A.B. 1 that proposed only reductions to existing appropriations enacted by the Budget Act of 2009, the Governor exceeded his "line-item" veto authority.

In A.B. 1, the Legislature, among other things, proposed to reduce the amount of existing appropriations in various items contained in the previously enacted Budget Act of 2009. For example, in Section 568 of A.B. 1, the Legislature added Section 17.50 to the Budget Act to reduce by \$9,483,000 the appropriation for the California Department of Aging previously enacted by Item 4170-101-0001 of Section 2.00 of the Budget Act of 2009. In his veto, the Governor purported to increase the amount of the reduction in the appropriation in Item 4170-101-0001 to \$15,643,000.² In his veto, the Governor also purported to increase reductions in A.B. 1 in existing appropriations previously enacted for the Hastings College of Law, contained in Item 6600-001-0001 of Section 2.00 of the Budget Act of 2009, from \$1,030,000 to \$2,030,000, and for local assistance relating to tax relief,

¹ All article references are to the California Constitution.

² The Governor's vetoes made similar increases to reductions to existing appropriations in the Budget Act of 2009 that were proposed by Sections 570 to 575, inclusive, of A.B. 1.

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Sheila R. Mohan
Kendra A. Nielsam
Gerardo Parada
Sue-Ann Peterson
Lisa M. Plummer
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Michelle L. Samore
Amy E. Schweltzer
Melissa M. Scolari
Aaron D. Silva
Jessica L. Steele
Mark Franklin Terry
Joyce Wallach
Bradley N. Webb
Rachelle M. Weed
Armin G. Yazdi
Jenny C. Yun
Jack Zorman

contained in Item 9100-101-0001 of Section 2.00 of the Budget Act of 2009, from \$6,948,000 to \$34,739,000 (see Secs. 473 and 541, A.B. 1).

The question presented is whether the Governor exceeded his line-item veto authority in acting to make additional reductions in the items or sections of A.B. 1 identified above, or in other items or sections of A.B. 1 that similarly proposed only a reduction of an existing appropriation enacted in the Budget Act of 2009.

By way of background, the California Constitution generally permits the Legislature to pass a bill by a majority vote in each house (subd. (b), Sec. 8, Art. IV). Once a bill is passed and presented to the Governor, the Governor may sign the bill into law or veto the entire bill (subd. (a), Sec. 10, Art. IV). If the Governor vetoes the bill, the Legislature may override the veto with a two-thirds vote in each house (*Ibid.*).

The California Constitution contains additional provisions that apply specifically to bills that make an appropriation of state funds. A bill making an appropriation from the General Fund of the state, other than one making an appropriation for the public schools, is required to be passed by a two-thirds vote in each house (subd. (d), Sec. 12, Art. IV). Further, when a bill containing one or more items of appropriation is presented to the Governor, the Governor may sign it, veto it in its entirety, or “reduce or eliminate one or more items of appropriation while approving other portions of [the] bill” (subd. (e), Sec. 10, Art. IV). An item of appropriation reduced or eliminated by the Governor may be restored by overriding the Governor’s veto in the same manner as other bills (*Ibid.*).

When exercising the powers of approving or vetoing legislation, the Governor is a special agent of the legislative branch with limited powers, and may act only in the specified mode and exercise only the granted powers (*Lukens v. Nye* (1909) 156 Cal. 498, 501-502). If he or she attempts to exercise these powers in a different mode, or to exercise powers not given, his or her act will be wholly ineffectual and void for any and every purpose (*Id.*, at p. 502). That is, when the Governor goes beyond the limits of these powers in the attempt to exercise them, his or her acts, so far as they exceed his or her authority, are of no force (*Ibid.*). Thus, the authority of the Governor to exercise the power of the line-item veto is limited to reducing or eliminating “items of appropriation” of money (*Harbor v. Deukmejian* (1987) 43 Cal.3d 1078, 1089; hereafter *Harbor*).³

The threshold step in assessing the validity of the Governor’s exercise of the line-item veto power is determining whether the provision being vetoed is actually an item of appropriation (*Ibid.*). An “appropriation” is the sole means whereby money may be drawn from the State Treasury (Sec. 7, Art. XVI). To constitute an appropriation, the statutory

³ In *Harbor*, the California Supreme Court rejected the claim that the Governor’s veto power should be liberally construed (*Id.*, at p. 1088, fn. 9). The court cited Section 3 of Article III for the proposition that one branch of government may not exercise the powers of another “except as permitted by this Constitution,” concluding on that basis that “in exercising the power of the veto the Governor may act only as permitted by the Constitution” (*Id.*, at pp. 1088-1089).

provision in question must give a state officer authority to expend an ascertainable sum of money for a particular purpose (*Stratton v. Green* (1872) 45 Cal. 149; *Humbert v. Dunn* (1890) 84 Cal. 57, 59). Put another way, “[a]n appropriation is a legislative act setting aside ‘a certain sum of money for a specified object in such manner that the executive officers are authorized to use that money and no more for such specified purpose’” (*California Assn. for Safety Education v. Brown* (1994) 30 Cal.App.4th 1264, 1282, quoting *Ryan v. Riley* (1924) 65 Cal.App. 181, 187). As summarized by the California Supreme Court in *Harbor*, to be considered an appropriation, a provision of a statute must set aside moneys for payment of a claim, make an appropriation of moneys from the public treasury, or add an additional amount to funds already provided for (*Harbor*, supra, at p. 1089).

In *Harbor*, the court made it clear that language contained in a bill does not constitute an “item of appropriation” merely because it is related to an item of appropriation contained in the enacted Budget Bill. In order for the provision in the subsequent bill to be considered an item of appropriation, it must itself have the effect in law of an appropriation, as discussed above (*Harbor*, supra, at pp. 1089-1090).⁴ Thus, the fact that provisions of A.B. 1 are related to existing appropriations previously authorized by the Budget Act of 2009 does not mean that those provisions are items of appropriation subject to the Governor’s line-item veto. Rather, that line-item veto authority is applicable to the provisions of A.B. 1 only to the extent that those provisions themselves are items of appropriation, namely, that their effect, if enacted into law, would be to grant authority to expend, from the public treasury, a certain sum of money for a specified purpose. We conclude here that the items and sections of A.B. 1 that proposed only to make reductions in existing, previously enacted appropriations do not satisfy this requirement and, thus, do not constitute items of appropriation that are subject to the Governor’s line-item veto power.

This conclusion is not contradicted by the California Supreme Court’s decision in *Wood v. Riley* (1923) 192 Cal. 293 (hereafter *Wood*). In *Wood*, at issue was a provision contained in the Budget Bill in which the Legislature directed the Controller to transfer 1 percent of appropriations made for the salaries and support of teachers, colleges, and special schools for use by the Director of Education for the payment of “salaries and support of the general administrative office of the division of normal and special schools,” for which funding was not included in the budget previously proposed by the Governor (*Wood*, supra, at pp. 304-305). Petitioners argued that the provision was not an item of appropriation, but rather an allocation of moneys otherwise appropriated (*Id.*, at p. 297; citations omitted). The *Wood* court disagreed, holding that the provision constituted an item of appropriation because “[i]t added a specific amount to the allowance already made for the use of the state board of education and the state superintendent of public schools” (*Id.*, at p. 305; emphasis added).

⁴ The court stated, in construing the term “item of appropriation,” that no definition of that term “can reasonably embrace a provision ... which does not set aside a sum of money to be paid from the public treasury” (*Id.*, at p. 1092).


Thus, as the California Supreme Court observed more than 60 years later in *Harbor, Wood* is inapposite where the provision in question does not itself constitute an item of appropriation (*Harbor*, supra, at pp. 1091-1092).

For the reasons above, we conclude that an item or section of a bill that proposes only to make a reduction in an existing item of appropriation previously enacted in the Budget Act of 2009 is not itself an item of appropriation subject to the Governor's line-item veto authority under subdivision (e) of Section 10 of Article IV. The legal effect of an item or section of a bill that solely makes a reduction of a previously appropriated amount is not to grant authority to a state officer to expend a specified sum, but to lessen that authority. Unlike an appropriation, the reduction of an existing appropriation does not set aside moneys for payment of a claim or make a new appropriation of moneys from the public treasury, nor does it add additional amounts to funds already provided for by an existing appropriation or identify a new purpose for which moneys may be expended. A state officer is not granted new expenditure authority, nor is a state officer's expenditure authority extended in any way by an item or section of a bill that solely makes a reduction of an existing appropriation.⁵

Therefore, it is our opinion that the Governor's vetoes in items and sections of Assembly Bill No. 1 of the 2009-10 Fourth Extraordinary Session that only reduced the amount of an existing appropriation previously authorized by the statute enacted as the Budget Act of 2009 did not constitute a valid exercise of his "line-item" veto authority granted by subdivision (e) of Section 10 of Article IV of the California Constitution.

Very truly yours,

Diane F. Boyer-Vine
Legislative Counsel

By 
Michael P. Beaver
Deputy Legislative Counsel

MPB:clr

⁵ Likewise, it is our view that a bill that reduces an existing appropriation from the General Fund would not thereby be required to comply with the two-thirds vote mandate that applies to appropriations from the General Fund (see subd. (d), Sec. 12, Art. IV).